

MATTHEW D. POWERS (Bar No. 104795)
matthew.powers@weil.com
EDWARD R. REINES (Bar No. 135960)
edward.reines@weil.com
JEFFREY G. HOMRIG (Bar No. 215890)
jeffrey.homrig@weil.com
JILL J. HO (Bar No. 236349)
jill.ho@weil.com
WEIL, GOTSHAL & MANGES LLP
201 Redwood Shores Parkway
Redwood Shores, CA 94065
Telephone: (650) 802-3000
Facsimile: (650) 802-3100

Attorneys for Plaintiff-Counterclaim Defendant
NETAPP, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.

Plaintiff-Counterclaim Defendant,

v.

SUN MICROSYSTEMS, INC.

Defendant-Counterclaim Plaintiff.

Case No. 3:07-CV-06053-EDL

**STIPULATION AND [PROPOSED] ORDER
EXTENDING DISCOVERY DEADLINE FOR
PATENTS NOT SELECTED FOR CLAIM
CONSTRUCTION**

As reflected in the parties' June 16, 2008 Joint Report on Claim Construction (Docket No. 79), the Court directed the parties to select three asserted NetApp patents and five asserted Sun patents for claim construction at this stage of the case. In light of this, the parties agree that the fact discovery deadline (and all dates triggered therefrom) for non-selected patents, which are not proceeding through claim construction at this stage, should be vacated. Accordingly, the parties hereby stipulate to and jointly request that the Court vacate the January 16, 2009 deadline for fact discovery with respect to the following patents-in-suit: U.S. Patent Nos. 7,174,352, 7,162,486, 7,133,964, 5,403,639, 5,410,667, 5,761,662, 5,941,954, 6,356,984, 6,591,303, 6,983,343, and 6,581,185.

1
2 Dated: September 4, 2008

3 DLA PIPER US LLP

4
5 By: /s/ Christine K. Corbett

6 MARK D. FOWLER
7 CLAYTON THOMPSON
8 DAVID ALBERTI
9 CHRISTINE K. CORBETT
10 YAKOV M. ZOLOTOREV
11 CARRIE L. WILLIAMSON

12 Attorneys for
13 Sun Microsystems, Inc.

14
15 Dated: September 4, 2008

16 WEIL, GOTSHAL & MANGES LLP

17
18 By: /s/ Jill J. Ho

19 MATTHEW D. POWERS
20 EDWARD R. REINES
21 JEFFREY G. HOMRIG
22 JILL J. HO

23 Attorneys for
24 NetApp, Inc.

25
26 **[PROPOSED] ORDER**

27 Having considered the parties' stipulation, the joint request for relief is **GRANTED**. The
28 January 16, 2009 deadline for fact discovery (and all dates triggered therefrom) is hereby vacated
with respect to the following patents-in-suit: U.S. Patent Nos. 7,174,352, 7,162,486, 7,133,964,
5,403,639, 5,410,667, 5,761,662, 5,941,954, 6,356,984, 6,591,303, 6,983,343, and 6,581,185.

29 **IT IS SO ORDERED.**

30 Dated: September ___, 2008

31
32 UNITED STATES MAGISTRATE JUDGE
33 ELIZABETH D. LAPORTE